

PAN-CYPRriot BAR ASSOCIATION**CYLaw**

The Law on the Establishment of European Works Councils of 2011 (106 (I) / 2011)

Amendment History

106 (I) / 2011 163 (I) / 2018

Preamble

For the purposes of harmonization with the European Community Act entitled

"Directive 2009/38 / EC of the European Parliament and of the Council of 6 May 2009 establishing a European Workers' Council or procedure in Community-wide undertakings and groups of undertakings for the purpose of informing and consulting employees",

The House of Representatives votes as follows:

PART I INTRODUCTORY PROVISIONS

Concise title

1. This Law shall be referred to as the 2011 Law on the Establishment of European Works Councils.

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Interpretation

2. For the purposes of this Law, unless a different meaning emerges from the text;

"Consultation" means the establishment of a dialogue and exchange of views between the employees' representatives and the central management or any other appropriate management body, in a time, manner and content which enable the employees' representatives, on the basis of the information provided; , give an opinion on the proposed measures relating to the consultation, without prejudice to the responsibilities of management and within a reasonable time, which may be taken into account by the Community-wide undertaking or the Community-wide group of undertakings;

"Information" means the transmission of information by the employer to the employees' representatives, so that they can be informed about the matter and examine it; the information is to examine in depth the possible consequences and, where appropriate, to prepare for consultation with the competent body of the undertaking or group of undertakings at Community level;

"Special negotiating team" means the group set up in accordance with articles 8 and 9 of this Law, in order to negotiate with the central management the establishment of a European workers' council or the establishment of a procedure for informing and consulting employees in accordance with paragraph (1) of article 4 of this Law;

"Workers' representatives" means the workers' representatives provided for by applicable law and practice;

"Community-wide enterprise" means any enterprise having at least one thousand (1000) employees in the Member States and at least one hundred and fifty (150) employees in each of at least two different Member States;

"European Workers' Council" means the council established in accordance with paragraph (1) of Article 4 of this Law or in accordance with the provisions of Articles 12 to 16 of this Law, for the purpose of informing and consulting employees ·

"European Economic Area" means the Member States of the European Union, Iceland, Norway, Liechtenstein and Switzerland;

"Head office" means the head office of the Community-wide undertaking or, for Community-wide groups of undertakings, of the controlling undertaking;

"Community-wide group of undertakings" means any group of undertakings which satisfies the following conditions:

- (a) employs at least one thousand (1000) workers in the Member States;
- (b) has at least two member companies of the group in different Member States, and
- (c) at least one member company of the group has at least one hundred and fifty (150) employees in one Member State and at least one other member company of the group has at least one hundred and fifty (150) employees in another Member State;

"Member State" means a Member State of the European Union and includes the Contracting Parties to the Agreement on the European Economic Area and Switzerland;

"Enterprise group" means any group that includes controlling and controlling enterprises.

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PART II GENERAL PROVISIONS

Purpose and scope

3. (1) The purpose of this Law is to ensure and improve the right of employees to information and consultation at Community level companies and groups of companies.

(2) The provisions of this Law shall apply to Community-scale enterprises established in the Republic of Cyprus and to Community-scale groups of enterprises whose controlling or parent undertaking is established in the Republic of Cyprus.

(3) The information of the employees and the consultation with them are carried out at the appropriate managerial level and level of representation, depending on the respective issue. To this end, the competence of the European Workers' Council and the scope of the process of informing employees and consulting those governed by this Law are limited to transnational issues.

(4) Transnational matters are those concerning the whole undertaking or group of undertakings at Community level or at least two undertakings or establishments of the undertaking or group located in two different Member States.

(5) Where the agreements referred to in Article 11 do not provide for a wider scope, the powers and responsibilities of the European Business Councils and the scope of the procedures for informing and consulting employees which are adopted for its implementation (1) shall apply, for Community-scale undertakings, to all establishments located in the Member States and, for Community-scale groups of undertakings, to all member undertakings of the group located in the Member States.

(6) [Deleted].

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Recommendation of the European Council

4. (1) For the purposes of this Law, a European Council of Employees is established or a procedure is established for informing and consulting employees in all undertakings and all groups of undertakings at Community level, upon request, in accordance with the procedure laid down in provided for in paragraph (1) of Article 8, for the purpose of informing and consulting such employees. Arrangements for informing and consulting employees are defined and implemented in such a way as to ensure their effectiveness and to facilitate the effective decision-making of the company or group of companies.

(2) By way of derogation from subsection (1), where a Community-scale group of undertakings comprises one or more undertakings or groups of undertakings at Community level, the European Workers' Council shall be constituted at group level, unless the agreements referred to in Article 11 contain different provisions.

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Controlling Company

5. (1) For the purposes of this Law, "controlling enterprise" means an enterprise which may exercise a dominant influence over another enterprise, a "controlled enterprise", either due to ownership rights, financial participation or rules governing it.

(2) The possibility of exercising a dominant influence is presumed, subject to proof to the contrary, when one undertaking vis-à-vis another undertaking directly or indirectly;

(a) Holds the majority of the subscribed capital of the enterprise; or

(b) has a majority of the votes attached to the shares issued by the company; or

(c) may appoint more than half of the members of the board of directors or of the management or supervisory body of the undertaking.

(3) For the purposes of subsection (2), the voting and appointment rights held by the controlling undertaking shall include the respective rights of any controlled undertaking and any person or organization acting on its behalf but on behalf of the controlling undertaking or any other controlled company.

(4) By way of derogation from subparagraphs (1) and (2), an undertaking shall not be a "controlling undertaking" of another undertaking holding shares in which it is an undertaking referred to in paragraphs (a) or paragraphs (c) and (d) of paragraph (5) of article 4 of the Law on the Control of Mergers of Enterprises.

(5) Dominant influence shall not be presumed solely on the basis of the fact that the designated person exercises his duties under the law of a Member State relating to liquidation, bankruptcy, insolvency, cessation of payments, bankruptcy settlement or other similar proceedings.

(6) In order to determine whether an undertaking is a 'controlling undertaking', the law of the Member State to which that undertaking is subject shall apply:

It is understood that if the law governing the undertaking is not the law of a Member State, the applicable law is the law of the Member State in whose territory its representative is located or, where there is no such representative, the law of the Member State in whose territory it is located the head office of that group company which employs the largest number of employees.

(7) In the event of a conflict of laws in the application of subsection (2) of this Article, and in the event that two or more undertakings of a group meet one or more of the criteria set out in subsection (2), the controlling undertaking shall be the which satisfies the criterion set out in paragraph (c) of subsection (2), unless it is established that another undertaking has a dominant influence.

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How to set a minimum number of employees

6. (1) For the purposes of this Law, the minimum number of employees employed by the enterprise and / or group of enterprises is determined on the basis of the total number of employees under any status, including part-time, in the enterprise for the last two years.

(2) Expired employment contracts of part-time employees or part-time employees are reduced to full-time employment applied by the company or industry for the calculation of the number of employees.

(3) The companies located in the Republic of Cyprus and falling under the provisions of this Law are obliged to notify in writing the number of employees, in accordance with the provisions of paragraphs (1) and (2), to the competent department of the Ministry of Labor and Social Insurance and employee representatives within three months of its implementation.

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PART III SYSTEMS OF THE EUROPEAN COUNCIL OF EMPLOYEES

Responsibility for setting up a European Workers' Council or establishing a procedure for informing and consulting employees

7. (1) The Central Directorate shall be responsible for establishing the conditions and means necessary for the establishment of the European Works Council or for establishing an information and consultation procedure provided for in Article 4 (1). , the Community-wide enterprise and the Community-scale group of enterprises.

(2) (a) Where the head office is not located in a Member State, the representative of the head office in a Member State, who may be appointed, shall bear the responsibility referred to in subsection (1). and

(b) In the absence of such a representative, the responsibility referred to in subsection (1) shall be vested in the management of the establishment or enterprise of the group which employs the largest number of employees in a Member State.

(3) For the purposes of this Law, the central address is considered to be the representative or representatives of the management or, if they do not exist, the address referred to in paragraph (b) of subsection (2).

(4) Each business address of a member of a Community-wide group of undertakings, as well as the central address within the meaning of paragraph (b) of subparagraph (2) or the presumed central address of the Community-wide enterprise or group of undertakings shall be responsible for securing and the transmission to interested parties of the information necessary for the opening of the negotiations provided for in Article 8, in particular information concerning the structure of the undertaking or group of undertakings and the number of employees. This obligation concerns in particular the information on the number of employees under the interpretative provisions "Community-scale enterprise" and "Community-scale group of undertakings", as defined in Article 2.

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Special negotiating team

8. (1) In order to achieve the objective referred to in Article 3 (1), the Central Directorate shall enter into negotiations for the establishment of a European Workers' Council or for the establishment of an information and consultation procedure, on its own initiative or after a written request from at least one hundred (100) employees or their representatives, who belong to at least two companies or establishments located in at least two different Member States.

(2) A special negotiating team shall be set up for the purposes of subsection (1) of this Article.

(3) (a) The representatives participating in the special negotiating team shall be elected with their alternates in the following order, as follows:

(i) From existing trade unions; and

(ii) where they do not exist, directly by employees by direct election.

(b) The employees in the facilities and / or companies in which there are no employee representatives for reasons beyond the will of the latter, have the right to elect or appoint the members of the special negotiating team themselves.

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Establishment of a special negotiating team

9. (1) The members of the special negotiating body shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-wide enterprise or group of Community-wide enterprises, allocating to each Member State one seat per share of employees. employed in that Member State equal to 10% of the number of employees employed in all Member States or a fraction of that portion;

(2) Where there is mutual agreement between the central management and the European Workers' Council, representatives of third-country workers may be recognized as mere observers.

(3) The central directorate and the local directorates, as well as the competent European workers 'and employers' organizations shall be informed of the composition of the special negotiating body and of the

commencement of the negotiations.

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Tasks of a special negotiating team

10. (1) The Special Negotiating Group shall be responsible with the Central Directorate for the determination, together with written agreement, of the scope, composition, tasks and term of office of the European Workers 'Council or European Workers' Councils or the arrangements the process of informing and consulting employees.

(2) With a view to concluding an agreement pursuant to Article 11, the Central Directorate shall convene a meeting with the special negotiating body and inform the local addresses thereof:

It is understood that after each meeting with the central management, the special negotiating team has the right to meet, with the necessary means for the communication of its members, without the presence of the representatives of the central management.

(3) For the purposes of the negotiations, the special negotiating team may request to be assisted in its work by experts of its choice, who may include representatives of the competent trade unions recognized by the European Union. Experts and trade union representatives may attend the negotiating meetings in an advisory capacity, at the request of the special negotiating team.

(4) (a) The special negotiating team, by a majority of at least two thirds, may decide either not to enter into negotiations in accordance with subsection (2) of this Article or to cancel the negotiations already under way.

(b) This Decision terminates the procedure for concluding an agreement provided for in Article 11. When this Decision is taken, the provisions of Articles 12 to 16 shall not apply.

(c) A new request for the convening of the special negotiating team may be submitted no earlier than two years after the above decision, unless the interested parties set a shorter deadline.

(5) The costs relating to the negotiations referred to in subparagraphs (1), (2) and (3) shall be borne by the central management, so that the special negotiating team can carry out its task more efficiently. Specifically, the central management undertakes the following expenses:

(a) the election or appointment of the members of the special negotiating team;

(b) the organization of the meetings of the special negotiating team, including the costs of interpretation, accommodation, travel expenses, maintenance of its members and expenses for printing and communicating the results; and

(c) an expert from the special negotiating team to assist it in its tasks.

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Content of the agreement

11. (1) The central management and the special negotiating team must negotiate in a spirit of cooperation with a view to reaching an agreement on the details of the implementation of the information and consultation of employees, which are provided for in paragraph (1) of Article 3.

(2) Without prejudice to the autonomy of the Parties, the agreement referred to in subsection (1), which shall be made in writing between the Central Management and the Special Negotiating Group, shall specify the following:

(a) the Community-wide undertakings of a group of undertakings or the premises of the Community-scale undertaking covered by the Agreement;

(b) the composition of the European Workers' Council, the number of members, the distribution of seats, taking into account, as far as possible, the need for balanced representation of employees by activity, category of workers and gender, and the term of office;

(c) the tasks of the European Workers 'Council and the procedure for informing and consulting it, as well as the arrangements for liaison between informing and consulting the European Workers' Council and informing and consulting the national bodies representing workers authorities referred to in Article 3 (3);

(d) the place, frequency and duration of meetings of the European Workers' Council;

(e) the composition, the appointment procedure, the tasks and the rules of procedure of the limited composition committee which may be set up within the European Workers' Council;

(f) the financial resources and material resources available to the European Workers' Council;

(g) the date of entry into force of the agreement and its duration, the arrangements under which the agreement may be amended or terminated, and the cases in which the agreement should be renegotiated and the procedure for its renegotiation, including , in those cases where changes are made to the structure of the Community - scale enterprise or group of undertakings.

(3) (a) The Central Management and the Special Negotiating Group may decide in writing and establish one or more information and consultation procedures instead of setting up a European Works Council.

(b) The agreement provides for arrangements under which employees' representatives have the right to meet in order to exchange views on the information communicated to them.

(c) This information concerns, in particular, transnational issues which significantly affect the interests of employees.

(4) The agreements referred to in subparagraphs (2) and (3) shall not be subject, except as otherwise provided in those agreements, to the ancillary obligations laid down in Articles 12 to 16.

(5) For the purposes of concluding the agreements referred to in subparagraphs (2) and (3), the special negotiating team shall decide by a majority of its members.

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PART IV SUPPLEMENTARY OBLIGATIONS

Application of ancillary obligations

12. (1) For the most effective application of Article 3 (1), the provisions of Articles 13 to 16 shall apply from the Member State in which the head office is located, in the following cases:

(a) if this is decided by the central management and the special negotiating team; or

(b) if the Central Office refuses to open negotiations within six months of the request referred to in Article 8 (1); or

(c) if, within three years of the date on which the request is made, the parties do not reach the agreement referred to in Article 11 and the special negotiating team does not take the decision provided for in Article 10 (4).

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Establishment of a European Workers' Council

13. A European Council of Workers shall be set up pursuant to Article 4, whose powers and composition shall be governed by the following conditions:

(a) The powers of the European Workers' Council shall be determined in accordance with Article 3 (3).

(b) The European Works Council shall be composed of employees of a Community-wide undertaking or group of Community-scale undertakings who are elected or appointed in accordance with Article 8 (3).

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Composition of the European Council of Workers

14. (1) The members of the European Works Council shall be elected or appointed in proportion to the number of employees employed in each Member State by the Community-wide undertaking or by the Community-wide group of undertakings, with the following distribution for each Member State:

(a) one seat per portion of employees employed in that Member State equal to 10% of the number of employees employed in all States; or

- (b) a fraction of that portion;
- (2) The European Workers' Council, in order to ensure the coordination of its activities;
- (a) elect from among its members a limited membership committee consisting of a maximum of five members, in which it shall ensure suitable conditions for the exercise of its activity at regular intervals;
- (b) draw up its rules of procedure; and
- (3) The central management and any other appropriate management body shall be informed of the composition of the European Staff Committee.
- (4) The European Workers' Council, four years after its establishment, shall consider whether to enter into negotiations in accordance with Article 11 or whether the provisions of Articles 12 to 16 shall apply.
- (5) Articles 11 and 12 shall apply mutatis mutandis if it is decided to negotiate an agreement pursuant to Article 11, in which case the expression "special negotiating body" shall be replaced by "European workers' council".

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Responsibilities of the European Workers' Council

15. (1) The European Workers' Council may meet once a year with the central management in order to be informed and to give its opinion, on the basis of a report by the central management, on the development of the activities and prospects of the Community-wide enterprise; or of the Community-scale group of undertakings. The local addresses are informed about the results of the meeting.

(2) The European Council of Workers' information shall cover in particular the structure, the financial situation, the possible development of activities, the production and sales of the Community-based undertaking or group of undertakings. Informing and consulting the European Workers' Council shall in particular concern the situation and possible developments in employment, investment, major organizational changes, the introduction of new working methods or production processes, production transfers, mergers, size reduction or the closure of companies, facilities or important parts of them and the collective redundancies.

The consultation shall take place in such a way that the employees' representatives can meet with the central management and receive a reasoned reply to any opinion they may give;

(3) The committee of limited composition or, if it does not exist, the European Workers' Council shall be informed in good time in the event of exceptional circumstances or decisions which significantly affect the interests of workers and in particular in the event of relocation, closure of operations or plant redundancies. In this case, the European Workers' Council shall have the right, at its request, to meet with the central management or any other appropriate management body within the Community-wide undertaking or group of Community-wide undertakings, which shall be responsible for taking such decisions; in order to be informed and give his opinion. In the event that the meeting is held with the limited composition committee,

(4) This meeting, for information and consultation, shall be convened as soon as possible, on the basis of a report prepared by the central management or any other appropriate management body of the Community-wide enterprise or group of Community-scale enterprises, at the end of which The members of the European Workers' Council may also be consulted within a reasonable time. This meeting does not affect the privileges of the central management.

(5) Prior to any meeting with the central management, the European workers' council or the limited composition committee, and / or enlarged in accordance with subsection (3), have the right to meet without the management being present.

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Functions of the European Workers' Council

16. (1) Without prejudice to Article 17, the members of the European Workers' Council shall inform the representatives of the workers at the premises or undertakings of the Community-scale group or, if there are no representatives, inform all the workers of the content and the results of the information and consultation process.

(2) The European Works Council or the Committee on Restricted Composition may be assisted by experts of its choice, in so far as is necessary for the performance of their duties.

(3) Their operating costs shall be borne by the central management, as provided for in paragraph (5) of Article 10.

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PART V GENERAL PROVISIONS

Confidential information

17. (1) (a) The members of the Special Working Group and the European Workers' Council, any experts who may assist them, as well as the workers' representatives, in the course of an information and consultation process, may not disclose to third parties the information expressly disclosed to them as confidential.

(b) The obligation of confidentiality continues to exist after the end of the term of office of the above members, regardless of where they are.

(c) The members of the European Employees' Council and the central management shall jointly decide on matters covered by confidentiality and the details of the information to be disclosed to third parties.

(2) (a) The central management has no obligation to inform the European Workers' Council on matters which:

(i) Their nature is such that, according to objective criteria, they may seriously impede or damage the operation of the undertakings concerned;

(ii) are classified as confidential by applicable law.

(b) Following a court order, the head office shall be obliged to inform the European Workers' Council on matters deemed to be confidential under paragraph (a) of this subparagraph.

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Principles governing the relationship between central management, the European Workers' Council and workers' representatives

18. (1) The central management and the European Workers' Council work in a spirit of cooperation, respecting each other's rights and obligations.

(2) The principles set out in subsection (1) shall also apply to cooperation between the central management and the employees' representatives, in the context of the process of informing and consulting employees.

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Role and protection of employee representatives

19. (1) Without prejudice to the competence of other bodies or organizations to represent workers, the members of the European Workers' Council shall have the necessary means to exercise the rights deriving from this Law and to collectively represent the interests of workers at Community level. company or Community-wide group of companies.

(2) The members of the special negotiating body, the members of the European Workers' Council and the representatives of the staff acting in accordance with the procedure referred to in Article 11 (3) shall enjoy, in the performance of their duties, of the same protection, as well as guarantees similar to the protection and guarantees provided for the employees' representatives based on the applicable legislation and / or practice.

(3) The protection and safeguards provided for in subsection (2) shall also apply to participation in the meetings of the special negotiating body or the European Workers' Council or in any other meeting held under the agreement referred to in subsection (3) of Article 11, as well as the payment of the remuneration of the members belonging to the staff of the Community-wide undertaking or of the Community-wide group of undertakings, in the absence necessary for the performance of their duties.

(4) To the extent necessary for the exercise of representation duties in an international environment, training without loss of salary shall be provided to members of the special negotiating body or the

European Workers' Council.

(5) A member of a special negotiating body or of the European Workers' Council or his deputy, who is a member of the crew of a Cypriot seagoing vessel, shall be entitled to attend a meeting of the special negotiating group or the European Workers' Council or any other meeting in accordance with the determined in accordance with the provisions of paragraph (3) of Article 11, if that Member or his alternate is not at sea or in a port of a State other than that in which the shipping company is established at the time of the meeting;

(6) Meetings, where possible, should be scheduled to facilitate the participation of members, or alternates, who are members of Cypriot seagoing crews;

(7) In cases where a member of the special negotiating body or the European Workers' Council or his deputy, who is a member of the crew of a Cypriot seagoing vessel, is unable to attend the meeting, the possibility of using, if possible, new information and communication technologies.

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Adjustment

20. (1) Where there is a serious change in the structure of the Community-wide undertaking or group of Community-scale undertakings and either no provisions of the existing agreements are provided for or two or more existing agreements are in conflict, the Headquarters shall begin negotiations under Articles 8 , 9 and 10, on its own initiative or at the written request of at least one hundred (100) employees or their representatives in at least two companies or establishments in at least two different Member States.

(2) At least three members of the existing European Workers' Council or of any of the existing European Workers' Councils shall become members of the special negotiating body, in addition to the members elected or appointed pursuant to Article 9.

(3) During the negotiations, the existing European Council or workers' councils shall continue to operate in accordance with the detailed provisions which may have been adapted by an agreement concluded between the members of the European Council or workers' councils and the central management.

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Existing agreements

21. (1) Without prejudice to Article 20, the obligations arising from this Law shall not apply to undertakings of Community level or groups of undertakings at Community level in cases where an agreement has been concluded in accordance with Article 11 of the European Committees Business Law has been signed or revised in the period between June 5, 2009 and the date of entry into force of this Law.

(2) The Law on the Establishment of European Business Committees, once the agreement has been signed or revised, shall continue to apply to undertakings or groups of undertakings referred to in subsection (1).

(3) At the end of the agreements concluded in accordance with subsection (1), the parties to those agreements may jointly decide on their extension or revision. If this does not happen, the provisions of this Law apply.

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PART VI OFFENSES AND PENALTIES

Offenses and penalties

22. Whoever violates the provisions of this Law is guilty of an offense and in case of conviction, is subject to imprisonment of up to two years or a fine of up to thirty-four thousand euros (34,000) or both.

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PART VII RESERVATIONS

Reservations

23. (1) The provisions of this Law shall apply to the extent that they do not affect the provisions of the Law on Group Dismissals and the Law on Retention and Ensuring the Rights of Employees during the Transfer of Businesses, Facilities or Departments of Companies or Facilities Law.

(2) This Law does not affect the rights of employees regarding their information and consultation with them, which exist in accordance with applicable law and practice.

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Abolition

24. From the date of entry into force of this Law, the Laws on the Establishment of European Business Committees from 2002 to 2007 are repealed.

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